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AUTHOR Lundberg, Larry
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ABSTRACT

The school board's negotiating team is all-important in the collective bargaining process, especially in light of the unity and organization of teacher association teams. Upper echelon administrative personnel, not the board members themselves, should compose the board's negotiating team. A board inexperienced in collective bargaining can hire a professional consultant/negotiator. Middle management administrators, such as principals, should not be on the negotiating team, though they should be consulted on a regular basis during negotiations. The same holds true for the superintendent. Even though its members are not directly involved in the process, the board can maintain control over negotiations by formulating a list of administrative demands, establishing priorities, carefully defining its team's authority and limitations, and setting limits on length of negotiating sessions. The negotiations process consists of three phases: planning (including measuring teacher demands in terms of cost, value to the educational process, administrative feasibility, and legality), probing (ascertaining the position of the teachers' team), and persuasion (reaching tentative agreements that will eventually be formalized in the contract). (DS)

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LARRY LUNDBERG--Panelist for Clinic A-16

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PREPARING FOR NEGOTIATIONS

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A. Choosing a Negotiating Team

When a school board enters into collective bargaining with its teachers, one of the most important decisions it will make concerns the selection of its negotiation team. The selection of team members is of paramount importance for two main reasons: (1) the entire school system is influenced by the nature of the agreement reached by the two parties; and (2) the teachers will choose their most effective and articulate members to represent them at the bargining table.

For these reasons, the board should organize a team that is best prepared to represent the board's point of view to the organized employees.

Teacher Advantages

With the advent of collective bargaining in public education and its rapid growth, the teachers enjoy certain advantages over the board and its administrators:

1. Practically every public school system in America had an organized teacher group long before collective bargaining came upon the scene. In private industry it took a century for employees to organize themselves and achieve their present level of sophistication. This will not be true among the teachers. They already have an organized base to build upon. School boards have to prepare quickly for what lies ahead.

2. Teachers are being advised and guided by powerful state and national organizations. Great sums of money are being expended by these organizations to make collective bargaining successful for the teachers. Board members and administrators do not have access to these rich coffers. School board associations and administrator associations must organize themselves more effectively.

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3. Teachers are highly motivated in their collective bargaining. Every demand that is brought by the teachers to the bargaining table is of direct and personal advantage and profit to the teachers. They will join hands to walk the picket line. They will close ranks to protect their members. Such unity can bring great pressure to bear upon the board.

Boards Should Not Negotiate for Themselves

The primary reason that the school board should not do its own bargaining is that to do so removes the administration from a crucial involvement with the staff. In order to do its job effectively, the administrative staff should be directly confronted by the teachers across the bargaining table. Such a process brings the administrative staff in direct contact with the suggestions and problems of the teachers. After all, it is the administrative staff which must enforce and live with the final contract.

There is another slant, also. Teachers negotiating directly with the board might be construed to be a form of "bypassing" administration, generally an unsound policy.

Another reason that the board should not do its own negotiating is that the board is the final decision-making body of the community, but the teachers' negotiating team is not the final decision-making body of the teachers. This puts the board at a disadvantage. Although the board is expected to abide by its commitments made at negotiating sessions, the teachers' team can always withhold commitments pending approval of some other body.

Board Members Should Not Serve on the Team

In very small school systems, it may be necessary to use a board member on the bargaining team; however, as a general rule, this should not be done.

School board members are busy people. If negotiations are entered into seriously, board members will not have sufficient time to do an effective job. On the average, about twenty sessions are required to reach an agreement.

Attending negotiating sessions is generally not a problem for the teachers. They will be available any time. As a matter of fact, one tactic employed by unions is to wear the opposition down through meetings. So whoever negotiates for the board must be available at all times.

Also, more and more teacher association negotiators are becoming sophisticated spokesmen. Between local executive secretaries, Uni-Serv negotiators, and state and national consultants, a wealth of experience is being developed to help the teachers. As part-time, unpaid volunteers of limited term, board members cannot be expected to be effective negotiators. Certainly in industry the board of directors would not be expected to sit across the table with the union. Such jobs are left to professionals in the company.

Selecting the Board's Team

It is impossible to devise one board negotiating team which will work in all school districts. There are too many variations among school systems to do so. Regardless of the community, however, several points should be considered in making up a team to represent the board:

1. Outside consultants should be used when needed. In seeking outside consultant help boards should be sure to get the right consultant for the right job. If a school system has no experienced negotiators and is negotiating for the first time, serious consideration should be given to hiring a professional negotiator--- at least until the school system feels ready to do the job itself.

Some school districts may hesitate to employ a professional negotiator because there is doubt that such a person would be familiar enough with the local system to represent it adequately or because professional negotiators are expensive.

As far as the first reservation is concerned, the negotiator's lack of familiarity with the local school system can be easily corrected by detailed briefing sessions with the school administration and the board.

As far as the cost of a negotiator is concerned, it is true that they are expensive, but when one considers the great experience they bring to a school district and the great amount of time they put into preparation and follow-up, the expense is understandable. Also, a small investment in an experienced negotiator can save a school system thousands of dollars in one year by avoiding costly mistakes.

Part of the negotiations service of the Washington State School Directors' Association is assisting local school districts in the location of competent professional negotiators. Sharing the services of such a person with other school districts can also be arranged through contract with the association.

2. There should be only one spokesman for the team. More than one spokesman creates the following problems:

a. Conflicts arise between the speakers. Misinterpretations arise regarding positions taken.

b. Too much cross-discussion may arise between the two parties, making agreement almost impossible.

c. The team might have its position revealed unintentionally or at an inappropriate time.

d. Several spokesmen can reveal or create disunity in the team.

If the single spokesman needs to involve other team members, this generally should be done in caucus.

3. The board's spokesman should have a clearly defined scope of authority and should know how far to go on any issue. When the chief negotiator makes a tentative commitment, the teachers should be able to trust what they have been told. Anything less will undermine the negotiating process and weaken the board's position.

4. Middle management administrators should not be on the team. This includes building principals, assistant principals, supervisors, guidance directors, department heads, etc. Not only might they have their own negotiating unit, but these administrators are too close to the teachers on a daily working basis. Should they serve on the team they might damage their effective relationship with their teachers. Also, these administrators do not have system-wide responsibilities. Team members for the board should have broad administrative responsibilities.

5. Even though middle management administrators should not serve on the team, they should be consulted by the team on a regular basis during negotiations. This is particularly true of building principals. The majority of the contents of any agreement have a direct or indirect bearing on the principal's role. Such consultation should not be limited to building principals, however. Any administrator with specialized knowledge and responsibilities should be consulted prior to reaching an agreement pertinent to that person's field.

6. There should be at least three members on the team and no more than five members. Less than three is inadequate for an effective team. More than five is cumbersome.

7. One team member should serve as secretary. This is an important position. This person is responsible for keeping an accurate summary of tentative agreements and of significant discussions. Verbatim notes and tape recorders should not be used. Such records interfere with the free flow of discussion.

8. Members of the board's negotiating team should be given necessary support. Team members will need time to prepare for, participate in, and follow up on negotiations. They will need clerical, secretarial, and administrative support. As a matter of fact, they should be given almost any help they request. To do less will needlessly weaken the board's position.

9. School attorneys should not serve on the team unless they are trained and experienced negotiators. Otherwise, they should provide only legal advice to the board and its team and should review for legality the final language of the agreement.

The Superintendent Should Not Negotiate

The superintendent should certainly avoid being the spokesman for the board's negotiating team and, in most instances, should not be a member of the team. This recommendation is controversial among teachers, administrators, superintendents and board members. However, experience has shown that the school district superintendent can be more effective by delegating negotiations to someone else. This position is taken for several reasons:

1. The superintendent does not have the time to be directly involved in negotiations.
2. The superintendent's status can be damaged by bargaining directly with teachers.
3. By being directly involved in bargaining the superintendent can alienate the instructional staff, thus undermining his or her leadership role.

The proper role of the superintendent is to advise the team and the board during negotiations and implement the agreement. It may also be necessary for the superintendent to serve as a "healing" influence should disputes divide the district.

Who Should Negotiate?

If superintendents, school board members, school attorneys, and middle-management administrators should not be on the negotiating team, then who should be? In school systems where there is a large central staff, the negotiating team should be made up of from three to five persons holding any of the following positions: assistant superintendent for general administration, personnel director, curriculum director, business manager, or some other administrator or supervisor with district-wide responsibilities.

In many cases serious consideration should be given to hiring a professional negotiator as the chief spokesman. In other instances boards will want to at least obtain professional consultation. As mentioned earlier, detailed information regarding such consultation is available from the school directors' association.

Small Districts Have Special Problems

In many school districts there is a very limited central administration. The superintendent in such districts may have only one assistant, and it may therefore be necessary to use a board member and/or the board attorney to make up a team. Again, serious consideration should be given to hiring a professional negotiator. The expense of employing such a person can be kept minimal by several districts joining together and contracting with the school directors' association for the services of a negotiator. Such an arrangement might well bring a group of school boards together in needed unity.

Maintaining Control

Even though members of the board are not involved in the actual bargaining, there are several ways that the board can maintain direct and indirect control over negotiations:

1. Before the board lets its team go into action, there should be an understanding of the limitations under which the team must operate. These limitations will vary from district to district. Regardless of these variations, however, the board should carefully outline in writing its parameters.

2. A second way that the board can maintain indirect control over negotiations is to establish a priority of items submitted by the teachers and items submitted by the board. In this way the negotiating team knows in advance which subjects are most important to the board.

3. Another way that the board can maintain control over negotiations is to prepare its own list of demands which it will exchange for the demands of the teachers. As a general rule, nothing should be given away without getting something in return which will improve the school system. In many instances, unknowing but well-intentioned boards have given away the store before they knew what happened.

This does not suggest that if the teachers submit 67 items that the board should submit 67 items in return. But by being ready with counterproposals, the board may have an opportunity in the bargaining process to obtain an improvement that otherwise would be unobtainable.

4. Negotiations can also be controlled indirectly by the board through the establishment of certain deadlines. Such deadlines help expedite negotiations. For example:

a. A limit on the length of negotiating sessions.

b. A deadline for the submission of teacher demands.

c. A deadline for the reaching of an agreement.

d. A deadline for having a meeting when either party requests a meeting.

Keeping the Board Informed

Keeping the board informed should not present a serious problem if a system is worked out in advance. The goal is to relieve the board and the superintendent of the burdensome part of collective bargaining but still reserve all necessary control.

In brief, it works like this:

1. The board meets with the negotiating team and the superintendent to: discuss ground rules; discuss priorities; develop a list of demands from the board; evaluate the demands of the teachers; and define the parameter limits of the team.

2. From there on out, the negotiation team meets with the teachers' representatives and carries on bargaining, reporting to the superintendent before and after every session. When the negotiating team reaches a point where it needs direction, it stops negotiations on that point and consults with the superintendent and the board.

3. The above process continues until the team comes to a tentative agreement which they can recommend to the superintendent and the board.

4. The superintendent recommends the agreement to the board at a public meeting. Although the board should be ready to ratify the agreement, there is still this one last chance for the board to exercise its final authority.

B. Planning, Probing and Persuasion

The negotiations process can be divided into three phases.

Planning

Planning is the first of these phases, not only in time but perhaps in importance. The need for thorough and advance preparation requires special emphasis.

When should one commence preparation? The bromide is still worth repeating: "The day the agreement is signed is the time to start preparing for the next contract negotiation." This means such activities as keeping a record of contract clauses which are not working out satisfactorily and of grievances indicating need for improvement.

Local, state and national bargaining developments should be studied. An effective two-way communications system should be developed with the bargaining unit members. As a total result, it may be possible to know well in advance what demands and problems are likely to rise at the bargaining table. Boards may even be able to influence and condition the thinking of key members of the teacher bargaining unit.

When the union proposals are finally received, good planning requires that they be scrutinized and analyzed thoroughly before the next bargaining session. It is helpful to remember that the position taken on any of these demands may have to be defended before a fact-finding panel searching for inconsistencies and weaknesses in the position of either party. Yardsticks to measure the union demands include:

1. Cost. All demands should be thoroughly "costed out". Often cost information alone is enough to demonstrate the unreasonableness of a union position.
2. Value to the educational process.
3. Administrative feasibility.
4. Conflict with board policies, rules and regulations.

5. Legality.

6. Within the scope of negotiations (mandatory and nonmandatory).

7. Should the demand be handled through the grievance procedure instead of in contract negotiations? Sometimes inquiring may reveal there has been no situation or incident to justify the demand.

Management proposals to teachers should also be the product of careful planning. They should be based on sound reasons. If they are trivial, they may be accepted by the union. and the union will then expect something in return for a concession the management did not really want.

Probing

After proposals have been submitted by both sides, the parties now enter the probing period. Each side is probing to find out the ultimate position of the other. Management may be aiming to settle for X, but the union may not succeed in ascertaining this and may be induced to settle for X minus. On the other hand the union may be willing to settle for X but convince the management it must grant X plus.

If both parties are bargaining in good faith, the positions which they take in probing objectives will be accompanied by reasons. It should be stressed that bargaining in good faith does not require making concessions. It does mean, however, making sincere efforts to find common ground for agreement. This involves giving reasons for positions taken, which is usually no problem.

Each side is willing to talk at length, but very often the difficulty is the inability to listen. The listener may be only half-listening because he or she is preoccupied with preparing the next reply. Thus possible clues to a compromise may be missed. The art of listneing bears cultivation in collective bargaining as well as in other social relationships.

In probing the positions of the teachers' bargaining representatives, some basic techniques to consider are:

1. Be sensitive to signs and signals. Often what is said is not as important as how it is said. The absence of a key word may be significant. For example, the union may stop demanding binding arbitration and begin to refer simply to arbitration--- perhaps indicating a willingness to settle for advisory arbitration.

2. Observe the demeanor of all members of the teachers' bargaining committee. The chief negotiator may be speaking eloquently on a particular issue, but at the same time the rest of his committee may appear completely bored or uninterested.

3. Determine, by the above and other methods, the order of priority in the union demands, and proceed to test this by attempting to eliminate the less important items.

4. If it is not clear whether a demand has been dropped, do not attempt to ascertain its status by asking if it has been dropped. The union committee may have political reasons for not being able to drop the demand openly. An indirect inquiry may be more tactful, such as suggesting that all open items be listed by way of summary ---then omit the particular demand in question in your listing.

The probing phases will begin to move gradually into the last phase of the negotiating process---that of persuasion.

Persuasion

It is relatively simple to answer a proposal with a flat no, or to give away more than one should with a flat yes. The test of the negotiator is the ability to work out and persuade acceptance of reasonable compromises.

What does this require? Again the need for thorough and advanced planning must be stressed. The management team must have an intimate understanding of the

issues involved in order to perceive the heart of the problem. Some techniques and cautions which must be considered include:

1. Successful persuasion is facilitated by package offers. In this way, when a concession is made, attached to it is the condition that other related demands be dropped or modified. This is helpful in guiding the other side, so that it is less likely to drop demands where there is room for compromise while retaining demands where there is no such room. In addition, one can more easily avoid the situation in which, after all concessions have been made, there are a large number of issues still unresolved.

2. If an impasse is reached on a given issue, it is advisable to proceed to some other issue rather than to belabor the point. Later, the time may be more appropriate for reaching agreement.

3. Reduce tentative agreements to writing promptly, but check with your attorney before signing. Agreements "in principle" may turn out not to be agreements at all. As a corollary it should be clear that agreements are tentative, subject to final agreement on the entire package.

4. Think affirmatively. Sometimes it may appear almost impossible to gain acceptance of a position one is trying to advance. In collective bargaining, however, one can never tell what the other side may accept eventually, if it is presented with persistence and conviction. Under no circumstances should one "pass the buck" by blaming a superior for a position one has to take. Such a posture simply results in loss of respect by the other side.

5. Try to avoid ending a negotiating session with either all negative answers or all affirmative answers. A good mix of both contributes to progress toward settlement.

6. Remain calm. Emotionalism (as distinguished from its simulation) has no place in negotiations.

7. Do not play the "numbers game" by feeling obliged to make substantial concessions simply because the union drops a substantial number of demands. Chances are the union had too many demands in the first place.

The final phase of the persuasion stage will find both parties in a settlement mood, each reasonably satisfied that all possibilities have been explored. Preferably the final proposals will come from the union. If management must make the final proposal, the union may try to get something more. If this is done with authority, the union committee should be satisfied that it "left nothing on the table."

There is a current trend toward membership meetings rejecting recommendations. For this reason all members of the committee should be required to sign a memorandum of agreement before negotiations are terminated. This will help to assure thay will all do their best to gain membership acceptance. In addition, it may be helpful to prepare a detailed summary of the settlement to be distributed at the teachers' association meeting.

THE PROCESS OF NEGOTIATIONS

A The First Meeting

At the first negotiation meeting, ground rules must be established for the bargaining sessions. If the district has no rules, or if the ones it has are unmanageable, sample guidelines which have proven effective are available and can be adapted to fit each local situation.

The ground rules should set a regular time for the bargaining sessions. Generally negotiations should be conducted during regular school hours. Let the union pay for their negotiators' time, which will help expedite settlement. There should also be a time limit for these meetings. However, the team members should be flexible in this area. If a long period is required because it appears the parties are moving closer, they should stick it out to resolution.

Don't get held up on where the teams are going to meet. Just as the relationship of management and their employees varies from district to district, so does the importance of the location of the bargaining sessions.

Set a tentative schedule of meeting times and places, but again be flexible if cancellations become necessary. By establishing a tentative schedule, the negotiators can arrange their schedules with their other duties and can develop a reporting system with the administration, the community and the board.

Members of the negotiating team should make an effort to always be on time. This shows sincerity on their part to bargain in good faith. As the board's team, they represent the district and should act accordingly.

Introductions are in order at the first meeting so that the members of both teams can get to know one another on a first name basis. The board's team should identify their chief spokesman and state that they have been given the authority to negotiate for the board of directors of the district.

The board's team should state their understanding of who the other team's organization represents and should recognize their organization as the exclusive bargaining agent for those employees. Both teams must have the authority to enter into tentative agreements. If the teachers' negotiators must run back to a representative assembly or an executive board before tentatively agreeing to anything, negotiations will be a waste of time.

The parties should also have an understanding about the size of the bargaining teams, number of observers and releasing information to the press and public. Don't tie your hands with a joint press release agreement. Each party should limit its members at the bargaining table to from three to five. Any more than this becomes overwhelming and at times uncontrollable.

Also, the number of observers should be limited so that negotiations aren't being held in a "fish bowl". If an issue requires a person with expertise to attend the meeting, this should be allowed. Or if training and a more comprehensive understanding of the process is needed by either side, allow those observers to attend. Basically, try to work together in a confidential relationship.

A CHECKLIST FOR ANALYZING TEACHER ORGANIZATION PROPOSALS

---Is it educationally sound and supported by conclusive research?

---Is it needed?

---Is it negotiable (mandatory or nonmandatory)?

---Does it subject private interests to the larger public interest?

---Does it avoid the potential for conflicts of interest?

---Does it involve someone else's job description?

---How would it affect other employees?

---Does it violate management rights?

---Can it be administered fairly and efficiently?

---Does it comply with existing law in letter and in spirit?

---Does it comply with board policy and practice?

---What precedents would it establish?

---What would it cost?

---Does the teacher organization offer a tangible improvement in services to pupils commensurate with this benefit asked?

---Can its positive and negative effects be measured?

---Is it to the individual employee's benefit rather than to the organization's benefit?

---Does it encourage experimentation and innovation?

---Does it acquire any cumulative, multiple, or new effects when considered with other proposals?

---Are its intents clearly stated?

---Are all definitions perfectly clear?

---If it passes the above tests, could it be written better in more precise language?